

**MINUTES**

**MONTANA SENATE  
58th LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON LOCAL GOVERNMENT**

**Call to Order:** By **CHAIRMAN JOHN C. BOHLINGER**, on January 21,  
2003 at 3 P.M., in Room 335 Capitol.

**ROLL CALL**

**Members Present:**

Sen. John C. Bohlinger, Chairman (R)  
Sen. John Esp, Vice Chairman (R)  
Sen. Jerry W. Black (R)  
Sen. Brent R. Cromley (D)  
Sen. Jim Elliott (D)  
Sen. Kelly Gebhardt (R)  
Sen. Bill Glaser (R)  
Sen. Rick Laible (R)  
Sen. Jeff Mangan (D)  
Sen. Carolyn Squires (D)  
Sen. Mike Wheat (D)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Leanne Kurtz, Legislative Branch  
Phoebe Olson, Committee Secretary

**Please Note:** These are summary minutes. Testimony and  
discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing & Date Posted: SB 168, 1/14/2003; SB 191,  
1/16/2003  
Executive Action: SB 163; SB 46; SB 47

**HEARING ON SB 168**

**Sponsor:** SENATOR EMILY STONINGTON, SD 15, Bozeman

**Proponents:**

Lee Provance, Gallatin County  
Tim Davis, MT Smart Growth Coalition  
Tim Burton, Helena City Manager  
Don Hargrove, Gallatin County  
Steve Mandeville, self  
Gordon Morris, Montana Association of Counties  
Kelly Gebhardt, self

**Opponents:**

none

**Opening Statement by Sponsor:**

SENATOR EMILY STONINGTON, SD 15, Bozeman, said SB 168 actually attempted to undertake some correction of a fairly complex set of issues. She stated that as communities grow, they try to annex properties to bring them into city government. She stated generally the land owners would petition to come into the city. She maintained that because Montana was such a rural state, it's annexation laws were not terribly good at helping maneuver through the complex issues of people wanting in or not wanting in and who governs what. This bill addressed one complicated issue dealing with how to take care of the roads when property is annexed in. She said it could become very confusing at times because the city owns some then the county then the city and so forth. She maintained that this was confusing because no one knew who was responsible for maintaining the roads, setting speed limits, and so on. She said this bill attempted to address the problems by saying the municipality should include the full width of the street. She said the proponents would explain the problem better. She said this bill would not solve all the problems but that it was a step in the right direction.

**Proponents' Testimony:**

Lee Provance, Gallatin County, said this bill would allow cities to acquire a larger portion of the roadway and would give them jurisdiction of those portions. He said he had come prepared to speak about a much larger issue which was jurisdiction of larger portions of road from intersection to intersection. He maintained

there was a problem with law enforcement setting speed limits, and who actually had authority over the entire road. He said in some situations no one did, or it was multi jurisdictional. So if the city set the speed limit and an officer from the county pulled somebody over in a 25 mile an hour speed zone, there was actually no ordinance passed by the county on that road and the officer was compromised and could be sued for unlawful detention, since there was not actually a speed limit set on that portion of road. He said it was awfully tough to keep track when only 300 feet of road in front of a subdivision was annexed. He said it was also hard on citizens because they did not know who to expect services from. He had envisioned a broader issue. He said anything that would help to clarify jurisdiction in any manner, which this bill attempted to do in a minuscule way, he supported.

**Tim Davis, MT Smart Growth Coalition,** said they supported the bill in concept. He said it made sense for cities to annex roads and the right of way, but that this bill did not solve the problems that were caused by current annexation laws. He said the annexation laws were creating leap frog subdivision, patchwork jurisdictions in and outside of cities, and this bill did not really address that. He suggested that the committee could talk about how to address some of those problems in executive session. He said right now that most subdivisions are annexed by land owner petition. So this bill would require the city to annex the roads around that property, but not the roads between that property and the city. He maintained it was confusing who had jurisdiction over the city roads out in the county. He said they supported the concept but still had issues with it.

**Tim Burton, City Manager of Helena,** said this was an issue that needed to be dealt with and they supported it in concept. He said they were addressing these issues and the jurisdictional boundaries at the request of the police and fire chiefs to coordinate a response as to where the jurisdiction begins and ends. He said another important issue was the conditions of the roads. He maintained they were not in real good shape outside the city boundaries, and there were not means in place for county governments to bring them up to standard. He said a lot of them were not pavement, but chip seal roads that were falling apart. He described that when there were lots out side of the city boundary not big enough for replacement septic tank drain fields and they needed city sewer services, that the city of Helena annexed them in and told them they needed to waive their right to protest a future SID for road improvements in return for getting city water and sewer services. Then at the time when the neighborhood was large enough to invest in improving the roads the city would have a neighborhood meeting to discuss improving the roads to an asphalt standard. He did not want to be backed into a situation where he would have to tell single property

owners, that as a condition to annexation they would have to immediately upgrade their road to city standards. He maintained that would increase a single property owners cost significantly, instead of spreading the cost out to all the property owners if it was done as a neighborhood project. He thought the bill did touch a very important issue that they dealt with on a weekly basis in Helena. He thought the bill made sense primarily for fire and police protection services.

**Don Hargrove, Gallatin County,** suggested to the committee that the bill was worth considering as it was presented. He said it was logical that when a city annexation was adjacent to a road that road should become a part of the municipality. He said the problems would not all be solved by this bill or even in this session. He said the committee could 'what if' this to death, and a strong effort should be made to consider the bill as it was and it could be refined in further sessions.

**Steve Mandeville, self,** gave an example of a subdivision in Helena where the city had only annexed half the road, and left the other half with the county. He thought this legislation could solve a lot of the problems they had faced in dealing with bringing that road up to speed. He maintained this was a good piece of legislation.

**Gordon Morris, Montana Association of Counties,** said he could not add anything to the debate. He reinforced Don Hargrove's remarks. He said this was a start, not the final solution, and the issue would be back in all likelihood.

**Kelly Gebhardt, SD 4,** said that for the past 12 years he had served on the transportation committee on the Montana Association of Counties. He said this issue had come before that committee a number of times. He said there were a number of streets that if you went down the street one way it was a city street, and when you turned around to come back it was a county road. He maintained it was hard for emergency services to get dispatched to a county road or a city street when they end up being the same place depending on what side of the road you were on. He affirmed that this bill could correct some problems.

**Opponents' Testimony:**

None

**Questions from Committee Members and Responses:**

**SENATOR RICK LIABLE**, asked Mr. Burton to clarify if there were roads where the city was responsible for one half and the county was responsible for the other.

**Tim Burton**, said he believed that was the case in some instances. He maintained the largest issue and challenge were the roads that were all county, and for primarily sewer reasons, people needed to annex in to the city. He said the real issue was who paid the bills.

**SENATOR LIABLE**, asked Mr. Burton if the annexed road would go through the SID procedure to bring it up to city standards.

**Tim Burton**, said that was their approach. He said that was the only tool they had for previously developed areas outside the city limits. He said obviously it wasn't an issue for the larger brand new subdivisions that were annexing into the city, because the developer had taken care of that. He said that was a tool they used to spread the cost to a large neighborhood rather than having an individual home owner pay for that full improvement.

**SENATOR CROMLEY**, said that everyone had said this was a good start. He asked if sometimes noncontiguous areas were annexed.

**Tim Burton**, responded that sometimes noncontiguous areas were annexed but they annexed the road as well, for police and fire protection services. He said the situations where half the road was county and half the road was city needed to be dealt with so emergency services clearly knew where the boundaries were. The rest of the issues were related in terms of fixing roads, and providing services.

**SENATOR CROMLEY**, asked in cases where noncontiguous property was annexed, if the roads between the two were annexed also.

**Tim Burton**, said for the most part they were already doing what the bill was saying they should be doing anyway.

**SENATOR CROMLEY**, asked if that was the case state wide.

**Tim Burton**, said there were many different approaches and he didn't think that was a state wide standard.

**SENATOR CROMLEY**, asked if they couldn't make an amendment to say that all the public roads between the annexed area be annexed as well.

**Tim Burton**, said the potential trouble with that was that when the city jurisdiction annexed property they had to provide a plan

on how to get all city services to that particular parcel. He said it became more difficult for areas that were already developed. He said if you got too aggressive in terms of what the cities had to annex in terms of roads, you would either see cities shy away because of the associated costs or you may see the desire to put the improvements on the property owners. He thought they should be cautious.

**SENATOR WHEAT**, asked Tim Davis if he thought there were other things that should be included in the bill. He asked for his suggestion on solving the leap frog problem he had discussed in his testimony.

**Tim Davis**, said it would be a complex answer. He said Representative Wanzonried, had actually requested an interim study last session, and the Joint Resolution past, but the study was never done. He thought to really solve the larger issue something intensive like that study would have to be done.

**SENATOR WHEAT**, asked if he still thought this was a good bill.

**Tim Davis**, said the concept of requiring that the adjacent or contiguous roadways are included in an annexation made sense.

**SENATOR WHEAT**, asked if this would have any impact tax wise.

**SENATOR Stonington**, said the main tool for infrastructure work were SID's. So she did not think that property owners were taxed for community streets. She said it was more on how to get the infrastructure in place so that individual property taxes were sufficient to maintain the infrastructure an SID process had put in place.

**Tim Burton**, said in Helena they had street maintenance districts for maintenance, and you did not pay that unless you were inside the jurisdiction. Obviously they would want to work with a whole neighborhood on a SID if it all needed improvements.

**Gordon Morris**, said it should be noted that if the city annexed a road, it would be exempt from the county road levy. The property on the other side of the road would still be subject to the levy.

**Closing by Sponsor:**

**SENATOR STONINGTON**, noted that the group of people from Gallatin County that worked on this issue had tried to work with Leanne Kurtz on coming up with an amendment that would address jurisdictional issues. She said they were not able to come up with any amendment language and that maybe Leanne could discuss that with the committee. This bill was brought forth because they

were unable to pin it down any better. She said if it was the will of the committee to take it further it was at their pleasure. There is more to be tackled than this bill was addressing, but she left it up to the committees' discretion on how best to do that.

**{Tape: 1; Side: B}**

**HEARING ON SB 191**

**Sponsor: SENATOR JERRY O'NEIL, SD 42, Columbia Falls**

**Proponents:**

**Shirley Brown, Department of Health and Human Services, Child Enforcement Division**

**Kandi Matthew-Jenkins, Montana Families**

**Dawn Sliva, self**

**Opponents:**

None

**Opening Statement by Sponsor:**

**SENATOR JERRY O'NEIL, SD 42, Columbia Falls,** said that he had with him an amendment to the bill that had been worked out with the department of Health and Human Services. **EXHIBIT(los12a01)** He said they were trying to expunge the records of people who had child abuse allegations made against them but no evidence had been found to prove the allegations. He said the records would be left alone if an allegation that had been substantiated was in the files from before that time or an allegation was substantiated within three years after that time. He said the department was working on deleting these records but had no consistent policy on how to do that. He said that people believed that unsubstantiated reports were prejudicial. He maintained that he had a friend who had an unsubstantiated report in his file and when he went to apply for a government job, the report was brought up, and caused him harm. He did not agree with fiscal note. He hoped the committee could look on the bill favorably.

**Proponents' Testimony:**

**Shirley Brown, Department of Health and Human Services, Child Enforcement Division,** said they supported the bill as amended. She described that they received reports from mandatory reporters

and other people in the community who are concerned about possible abuse and neglect of children. She said once the report was received the centralized intake bureau determined whether it meets the definition of children being at risk of abuse or neglect. Next they determine whether there should be an investigation. If centralized intake determines there needs to be an investigation then the call is given to the social worker and the social worker conducts an investigation into the circumstances surrounding the allegations. If the social worker determines by a preponderance of the evidence that the abuse or neglect has occurred then it is a substantiated case. If the social worker can not determine with a preponderance of evidence then it is an unsubstantiated case. Shirley Browne said that they had raised the standard in the past year or so on what was required for a substantiation, from a reasonable cause standard to a preponderance of evidence standard. She maintained they conduct about 10,000 investigations a year. She said when they raised the standard they were substantiating between 10 to 15 percent of the investigations, leaving a large number of unsubstantiated cases. She said they supported the bill as amended because they had been looking at doing this internally in terms of developing policy, looking at record retention and how long they should keep unsubstantiated records and how long they shouldn't. They agree that if there had been a previous substantiation, or if after the unsubstantiated report there was a substantiated report they would keep those records longer. She agreed that if there were unsubstantiated reports after unsubstantiated reports they should not stay in the system. She reiterated they were in support of the bill to purge the records. She said their policy up to that point had been discretionary, this bill would make purging mandatory.

**Kandi Matthew-Jenkins, Missoula Montana**, submitted written testimony. **EXHIBIT (los12a02)**

**Dawn Sliva**, self, stated she was testifying from a unique perspective. She articulated she had been a victim of the system and she functioned as a rule reviewer for the department, so she saw the issue from both sides. She described that two years ago she and her daughter had been held hostage by her fiancé. She had been raped and her daughter had been molested and had her teeth broken. She found out a week after the incident that her daughter had been being molested for the entire duration of the relationship, and the fiancé had threatened to kill her if she had ever told anyone. She said that during the time they were held hostage he had announced that he had done the same to his previous girlfriend and molested her little girl and that he had gotten away with it. He announced that if they were to tell anyone he had friends in the police department, and he would kill them if he found out they had said anything. She maintained that



they were held hostage for 48 hours, and there was considerable damage to the house as well as emotional and physical damage to herself and her daughter. She said they finally got the nerve to tell the police what had happened. She was not sure how but the report stated that she had broken her daughters tooth, not the fiance. So an investigator had gone to the daughter's school and talked to her about the tooth which made her daughter very upset. The daughter insisted that her mother had not broken her tooth, and expressed to the investigator what had happened to her. Miss Sliva reported that later that week someone had thrown a rotting elk head on her doorstep. She expressed the fact that she did not hunt because she had a severe allergic reaction to the sun. She conveyed that someone from child protective services had come to her door concerning the elk head, and they had told her a report had been filed by the fiance's father. She claimed that because of that report her name was in the system with an unsubstantiated report of child abuse. She maintained that the department had not investigated what had happened to her daughter, despite repeated calls to them. She said she finally met the supervisor who called someone in who was supposed to be in charge of the investigation. She said that the two employees of the department of child services got in an argument over whether or not they needed to investigate her daughter's molestation and broken tooth. The supervisor maintained they did not and the other employee maintained that because the fiance had lived in the house at the time of the incident that they did. She said a week later she received a call that they had investigated it and substantiated that the fiance had abused the daughter, and they would report it to the police. She waited for sometime, and when she did not hear anything back she called to inquire and found out that there had not been a report filed. She stated she did some research and found out that the supervisor's brother worked for the family business of her past fiance. She said she finally took the information to the county attorney who then told the police they had to investigate the case. She said she finally lost patience this last Christmas that nothing had been done yet, and called again and asked them to please do a report, so they could put the incident behind them. She said two days after she called, the door to her home that was replaced after she was held hostage was vandalized. She was concerned about how the ex fiance had found out about her phone calls. She said she was there today, because after the whole ordeal her file still had an unsubstantiated claim of child abuse in the system. She asked the committee if they would make the bill retroactive. She claimed she would like her record cleared. She understood the problems with investigating these cases but felt strongly that unsubstantiated reports should be purged within a reasonable amount of time. She also asked the committee to allow hearing rights for people who had unsubstantiated claims. She said she was also concerned that the bill required the cases to go back to

the same social worker who filed the report, three years later to make decisions on whether to keep them. She wondered who would review the case if that social worker was no longer employed with the department. She said she assumed it would be the supervisor, and in her case that was a problem because the supervisor's brother worked for her assaulter's family. She was concerned with these issues. She asked for the committee's support.

**Opponents' Testimony:**

None

**Questions from Committee Members and Responses:**

***{Tape: 2; Side: A}***

**SENATOR ELLIOT**, asked if currently there was a classification called unsubstantiated.

**Shirley Browne**, stated that was covered under administrative rules.

**SENATOR ELLIOT**, said he was concerned that the legislative auditor's report had recommended that the department seek legislation to clarify its authority to maintain Child Protective Services information on individuals where the department had determined children are not in danger and investigations are not needed. He asked if there were other bills to come before the legislature to address that issue.

**Shirley Browne**, said that in the department's response to that audit they had indicated they would accomplish that by administrative rule rather than through legislation. She maintained that the rules were drafted, but they decided to hold off on them until they saw the results of this bill.

**SENATOR ELLIOT**, asked why this could not be handled with administrative rule.

**Shirley Browne**, said they had originally determined they would deal with all record retention in administrative rule. She maintained that since there was a bill before the legislature, it seemed like a good bill to support because it made it mandatory rather than discretionary. She said the unfounded reports were already addressed in statute. If after an investigation a report is unfounded, they are purged within thirty days.

**SENATOR ELLIOT**, asked why there was so much turnover within the department.

**Shirley Browne**, said she thought that part of the reason for the high turnover was many people started with the department right out of college, and at times it takes a while to determine if that is something you really want to do. She thought another reason for turnover, was the high case loads. She said one social worker that she knew of had 29 court cases, in her case load. She said the working conditions were quite difficult.

**SENATOR ELLIOT**, asked if the budget were cut whether it would exacerbate the problem of turnover and caseloads.

**Shirley Browne**, said she thought there was some legislation pending that would further refine what the department would do. She said they were constantly looking at further and more closely defining where their responsibility lay. She maintained that the budget crises would certainly effect them and the services they provided. She said they were taking a close look at their internal process, and they would have to see what happened with the budget.

**SENATOR GLASER**, said that the testimony from Miss Sliva had implicated the department. He wondered if there was any truth to her testimony and if Shirley Browne had heard it before.

**Shirley Browne**, said she did not know. She said if Miss Sliva would sign a release then maybe he could get all the information on her case.

**SENATOR GLASER**, charged that was the damdest testimony he had heard in a long time, and if it was accurate he would recommend that she file a complaint with the auditor. He said he had never heard of a department not doing their job, especially when it came to protection kids. He maintained that people could not be treated that way.

**Shirley Browne**, said she agreed. If the testimony was true she believed something should be done with the individual workers involved.

**SENATOR GLASER**, stated that it had already been alleged and nothing had been done.

**Shirley Browne**, stated she had no personal knowledge of the situation.

**SENATOR WHEAT**, asked if the department had a problem with the bill being made retroactive.

**Shirley Browne**, replied they did not. She assumed that if it passed they would go back and look at all unsubstantiated files.

**SENATOR WHEAT**, asked if they would have any problem with providing hearing rights for people who felt like they were not being treated properly under this section.

**Shirley Browne**, clarified that if a report was unsubstantiated, that meant that they had not been able to determine by a preponderance of evidence the abuse had occurred. So if it was unsubstantiated the information was kept private. She said she did not see the need for hearing rights in unsubstantiated case.

**SENATOR WHEAT**, asked what the functional difference was between 'unfounded' and 'unsubstantiated'.

**Shirley Browne**, said 'unfounded' meant beyond a doubt could not have happen, and 'unsubstantiated' meant there was not enough evidence to say it happened.

**SENATOR MANGAN**, wanted to know if the sponsor had spoken with the county attorneys association or any of the law enforcement agencies since they were included in the amendment.

**SENATOR O'NEIL**, said he had not.

**SENATOR MANGAN**, asked if he thought that would be important.

**SENATOR O'NEIL**, referred the question to Shirley Browne.

**Shirley Browne**, said she did not know if law enforcement kept separate files. She said the county attorneys were not involved in the investigatory portion, and would not receive the information on unfounded reports.

**SENATOR MANGAN**, said he knew of many cases of CPS and law enforcement had worked side by side in investigations, he believed law enforcement maintained files regardless of whether charges were made or not. He asked if Shirley believed that to be true.

**Shirley Browne**, believed if law enforcement kept records, it would be for a possible criminal case as opposed to a case of abuse and neglect.

**SENATOR MANGAN**, said since law enforcement was mentioned in the amendment, if it was the sponsors intention that every shred of documentation regarding a case be destroyed upon a unsubstantiated finding.

**SENATOR O'NEIL**, said he would love that to be possible, but had not even thought about it until the discussion on it today. He thought it might be good to put an amendment on the bill to show that was not accomplished with this particular bill, and come back in two years and solve that problem. He did not think this bill was intended to deal with law enforcement records.

**SENATOR CROMLEY**, wanted to clarify that they were talking about the State Department of Public Health.

**SENATOR O'NEIL**, replied that was true.

**SENATOR CROMLEY**, asked why this bill was not in Judiciary or the Public Health and Safety committee.

**SENATOR BOHLINGER**, replied that he had asked the chairman of Judiciary to take the bill, and because of their workload, he asked if it could stay in Local Government if at all possible.

**SENATOR LIABLE**, asked if the bill was retroactive or not.

**SENATOR O'NEIL**, said he would love to make it retroactive. He believed the fiscal note addressed it being retroactive. He said it would please him if the committee would amend the bill to say it wasn't retroactive, but if someone applied, they could have their records expunged. The reason for that was the fiscal impacts would be less.

**SENATOR LIABLE**, said there were two fiscal notes.

**SENATOR GEBHARDT**, replied one was for local governments and one was for the state.

**SENATOR O'NEIL's**, reply went back to what Senator Mangan was talking about regarding deleting the records from law enforcement. He maintained the local government impact statement said there was no local government impact, so maybe it was understood that law enforcement records would not be deleted.

**SENATOR MANGAN**, said he thought Senator O'Neil had stated there would be significantly less impact with the amendment attached to the bill. He wondered what the departments assessment of the costs were if the amendment were attached.

**Shirley Browne**, said she believed it would cut it at least in half, because the fiscal note was based on them going into existing files and extracting out unsubstantiated reports.

**SENATOR MANGAN**, said then for the record she was approximating about half of what the fiscal note currently stated.

**Shirley Browne**, she said yes, but that she was a word person not a number person.

**SENATOR MANGAN**, replied the committee would not hold her to a specific figure. He asserted that someone must have talked to the budget office about retroactivity because he didn't think it was included in the \$97,000 on the front, but they were talking about \$439,000 for a three year period. He wondered if that sounded about right.

**Shirley Browne**, said they had drafted it with the retroactivity. She suggested it be made retroactive to when the CAPS system was implemented.

*{Tape: 2; Side: B}*

**SENATOR MANGAN**, asked if there would be a cost to law enforcement if they had to go back and delete records.

**Gordon Morris**, said they worked closely with the budget office. He did not think there would be any significant impacts.

**SENATOR MANGAN**, clarified that he was speaking only of counties.

**Gordon Morris**, replied that was correct.

**SENATOR WHEAT**, asked if he understood the earlier testimony that the department was going to implement this process through rule making.

**Shirley Browne**, said yes, that was correct.

**SENATOR WHEAT**, asked for clarification that if the bill was killed the department would make rules to take care of this problem.

**Shirley Browne**, replied yes.

**Closing by Sponsor:**

**SENATOR O'NEIL**, apologized that the bill needed some work with amendments. He said as far as hearing rights on unsubstantiated reports, could be left for a different day. He said he appreciated Senator Elliott's observation on the auditors report criticizing the lack of a time line on destroying records, and he

believed this bill would address that. He asked for the committee's support.

**EXECUTIVE ACTION ON SB 112**

**Motion:** SEN. LAIBLE moved that SB 112 DO PASS.

**Motion:** SEN. ELLIOTT moved AMENDMENT SB011201.ADS.

**Discussion:**

Leanne Kurtz, explained that the amendments were only doing some accounting changes that the department of revenue asked for because of the way the fund transfer works.

SENATOR SQUIRES, asked if this was for every search and rescue or for the Deer Lodge, Anaconda area only.

SENATOR ESP, said it was statewide.

SENATOR ESP, asked if the amendment covered any of the fish, wildlife and parks.

Leanne, replied no, she reiterated Bob Lane had testified that they had questioned the solicitor regarding whether this would constitute a diversion of money that would be frowned upon by the federal government, and they had not receive an answer yet.

SENATOR LIABLE withdrew his motion.

SENATOR ELLIOT, withdrew his motion.

**EXECUTIVE ACTION ON SB 163**

**Motion:** SEN. MANGAN moved that SB 163 DO PASS.

**Motion:** SEN. MANGAN moved that AMENDMENT SB016301.ALK DO PASS.

**Discussion:**

Leanne Kurtz, explained the amendment. She said there was concern on the second page subsection 3, that required the person that makes a payment to a local government entity to pay a convenience fee of 3 percent. She said there was interest in having that language say "may be" required to pay convenience fee of up to 3 percent. Amendments two and three accomplished that. She said

rather than have the convenience fees put in the entities general fund and the fees paid to the company from the general fund, to have them come from the appropriate fund. Amendments four and five accomplished that.

**Vote:** Motion **carried unanimously.**

**Motion:** SEN. SQUIRES moved that **SB 163 DO PASS AS AMENDED.**

**Discussion:**

**SENATOR LIABLE**, said that he would support the bill because it appeared that all the counties were in support of it. He was concerned that the people that were least able to afford to do it this way would be the ones forced to do it. Conversely those people that have means and large tax payments would in fact probably end up going down and take up time at the court house to save the fees of not using the credit card. He said he thought in the long run, it might cost the counties more because eventually they would need more staff to take care of the people who pay in person rather than using their credit card.

**SENATOR SQUIRES**, said her county commissioners had relayed to her it was more expensive to process a check than a credit card. So they wouldn't be charging a fee.

**SENATOR ELLIOT**, said he would oppose the bill because he thought it was immaterial how county commissioners felt about encouraging poor economic behavior. He agreed with Senator Liable that this encouraged people who could least afford it to go into debt to pay their bill. He maintained the banks would get the interest instead of the counties. He said he was taught at an early age that you don't borrow money to meet ongoing expenses. You either cut the expense or get another job. He said he believed this was promoting bad economic policy and he was opposed to it.

**SENATOR MANGAN**, said he heard Senator Elliot's concerns and they could agree to disagree. He said this was an age of personal responsibility. He said the counties did not invent credit cards, and he did not like some of the ways credit card companies reeled people in. He said most business's utilized credit cards including the state and some counties. He said if some poor person was going to pay the taxes on their boat with their credit card didn't concern him. He said people needed to be responsible.

**Vote:** Motion **carried 9-2 with CROMLEY and ELLIOTT voting no.**

**Motion:** SEN. GEBHARDT moved that **SB 47 DO PASS.**



**Discussion:**

**SENATOR LIABLE**, said they were given the task of convening a subcommittee to talk about this bill in conjunction with a bill he had that was still an lc number. He said they had met that morning and it appeared they were 180 degrees apart on where the two bills were going. He said rather than passing this bill today, he would like to postpone it, so when his bill came up, it could be heard, and there would be a better sense of where the bills were going.

**SENATOR ELLIOT**, maintained the proper motion would be to table the bill.

**SENATOR LIABLE**, said he had thought he had moved to indefinitely postpone the bill.

**SENATOR ESP**, asked if he would withdraw that motion.

**SENATOR LIABLE**, said he would.

**SENATOR MANGAN**, said he thought it would be a mistake to wait for Senator Liable's bill. He thought each bill should be looked at on it's own merit then and move accordingly. He did not see a reason not to address this bill on it's merits, and Senator Liable' bill when it was presented on it's merits.

**SENATOR GLASER**, said there was a precedent. He said this was more like a gentle person's club. He said if there were two similar bills, traditionally courtesy was given to the other member so both bills could be heard, then they could duke it out. He said it would be his tendency to allow the bill to come forward by not taking any action or by tabling the bill.

**SENATOR GEBHARDT**, said for sixty or seventy years the counties got along with the wording in this code. He said this portion of the code only dealt with the amount of money that was involved when they did choose to contract. He said when the language was changed it made it tough for the counties to deal with, and they should deal with that issue. He said if they were going to wait for the other bill, this should be discussed at the same time.

**{Tape: 3; Side: A}**

**SENATOR WHEAT**, said he knew which bill he would vote for but he agreed that because they were dealing with the same statute, both bill should be discussed at the same time.

**SENATOR MANGAN**, thought the subcommittee was formed to deal with the two bills. He did not understand why this bill had come out of the subcommittee. He suggested it be sent back to the subcommittee to wait for the other bill.

**SENATOR LIABLE**, said this bill had been brought forward to codify what the counties had already been doing since 1999. He felt it was to cover them for not following the code. He said if the thought was to send it back to subcommittee, he had no objection to that, but wanted to see a fair hearing for both bills.

**SENATOR WHEAT**, said he did not think it would do any good to send it back to subcommittee because they could not get anything done because the bills are so dissimilar. He thought it should be tabled and resurrected when both bill were in committee.

**Motion/Vote:** **SEN. SQUIRES** moved that **SB 47 BE TABLED**. Motion carried 6-4 with **ELLIOTT, GEBHARDT, MANGAN, and SQUIRES** voting no.

**Motion:** **SEN. GEBHARDT** moved that **SB 46 DO PASS**.

**Motion:** **SEN. GEBHARDT** moved that **AMENDMENT SB004702.ALK DO PASS**.

#### **Discussion**

**SENATOR GEBHARDT**, said if you looked on page three line four and line five, all the stricken language would be added back in and the \$4,000 would be changed to \$25,000.

**SENATOR CROMLEY**, asked where the \$25,000 came from.

**SENATOR GEBHARDT**, said it was a number he chose, because it made it consistent with another area of the code that dealt with gas tax numbers.

**SENATOR ELLIOT**, asked if current law stated if the contract was under \$25,000 then prevailing wage did not have to be paid.

**SENATOR GEBHARDT**, said that was correct.

**Vote:** Motion carried unanimously.

**Motion/Vote:** **SEN. ELLIOTT** moved that **SB 47 DO PASS AS AMENDED**. Motion carried 1-0 with **SQUIRES** voting no.

**ADJOURNMENT**

Adjournment: 4:50 P.M.

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SEN. JOHN C. BOHLINGER, Chairman

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PHOEBE OLSON, Secretary

JB/PO

**EXHIBIT** (los12aad)